GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Energy, Infrastructure & Investment Department – Development of Commercial Port at Kona village, Thondangi Mandal, East Godavari District, Andhra Pradesh under PPP mode (DBFOT) – Declaration of Selected Bidder and Award of the Concession to M/s.Kakinada SEZ Limited – Orders – Issued.

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ENERGY, INFRASTRUCTURE & INVESTMENT (PORTS.II) DEPARTMENT

G.O.MS.No. 20 Dated: 26-06-2018.

Read the following;

1. G.O.Ms.No.10, I&I (Ports.I) Dept, dated 03-12-2007.
2. Letter No.3855/P.I(1)/2007, TR&B Dept, dated 13-12-2007.
3. Letter dated 29-04-2016 from the Vice President & Head –Ports, Kakinada SEZ Pvt Ltd, Hyderabad.
4. Letter No.DoP/D2/3502/2011., dated 10-05-2016, 19-05-2016 and dated 25-05-2016 from the Director of Ports, GoAP, Kakinada.
5. G.O.Ms.No.24, E, I&I (Ports.II) Dept., dated 01-07-2016.
6. G.O.Ms.No.33, E, I&I (Ports.II) Dept., dated 23-02-2017.
7. Letter No.KSEZ/SCP/UT/01, Dt.14-06-2017 from the Vice President & Head–Ports, Kakinada SEZ Pvt Ltd, Hyderabad.
8. G.O.Ms.No.20, E, I&I (Ports.II) Dept., dated 20-09-2017.
9. Govt Letter No.227/Ports.II/2016, dated 09-05-2018.
10. From the Director of Ports, Kakinada Letter No.SE/PP2/3502/2011, Dated 01-05-2018 & 07-05-2018.
11. Govt vide Letter No.227/Ports.II/2016., Dated 09-05-2018
12. G.O.Rt.No.57, E, I&I (Ports.II) Dept., dated 11-05-2018.
13. From the Director of Ports, Kakinada Letter No.SE/PP2/3502/2011, Dated 02-06-2018.

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ORDER:

Orders were issued in the G.O. first read above declaring the Kakinada Special Economic Zone Port as Minor Port in East Godavari District. Further, permission was accorded to M/s.Kakinada SEZ Pvt Ltd to construct captive port to handle only SEZ cargo subject to certain conditions laid down in the reference 2nd read above.

2. In the reference 3rd read above, the Vice President & Head–Ports, Kakinada SEZ Pvt Ltd, Hyderabad has submitted the Suo-motu proposal wherein they have stated that the Kakinada SEZ desires to convert the captive port license into a commercial port license through a Swiss Challenge mode as detailed in APIDE Act 2001 and requested the Government to take further steps.

3. After that, Government vide G.O. 5th read above agreed to the recommendation of the Director of Ports on the proposal of M/s Kakinada SEZ Pvt Ltd for conversion of the Captive Port in Kona Village, Thondangi Mandal, East Godavari District to the Commercial Port through Swiss Challenge Approach, duly following the procedure laid down in APIDE Act, 2001, draft PPP Rules, 2012 and as per the A.P.Port Policy, 2015.

4. Subsequently, Government have issued orders constituting the Tender Evaluation Committee vide G.O.6th read above. The Original Project Proponent (OPP) i.e. M/s.Kakinada SEZ Limited has submitted a revised suo-moto proposal as per the recommendations of the Transaction Advisor along with a sealed envelope containing their revenue share on 14-06-2017.

5. Government vide G.O.8th read above, have approved the final revised Suo-Motu Proposal of M/s. Kakinada SEZ Limited, along with Revised DPR and Revised DCA for conversion of their Captive Port in Kona village, Thondangi Mandal, East Godavari District, Andhra Pradesh to Commercial Port through Swiss Challenge approach duly following the procedure laid down in the APIDE Act, 2001, Draft PPP Rules, 2012 and

as per the AP Port Policy, 2015 and permitted the Director of Ports, AP, Kakinada to proceed with the Swiss challenge approach duly following various Supreme Court judgments on Swiss Challenge process.

6. The Director of Ports invited the counter proposals globally under Swiss Challenge process on 10-10-2017 and published the Request for Qualification (RFQ). The Director of Ports, AP, Kakinada issued RFP on 23-02-2018 to all the qualified bidders where the Revenue Share quoted by the OPP i.e. 0.99% was revealed to them. Out of the three firms qualified in RFQ, only Adani Ports & SEZ Ltd had submitted their proposal in RFP stage and had quoted a revenue share of 1.1% in accordance with the terms and conditions of the bid process. KSEZ exercised their right to match and matched the highest bid of 1.1% received from Adani Ports & SEZ Ltd in terms of the Swiss Challenge and bidding process. The Tender Evaluation Committee (TEC) vide reference 6th read above in its meeting held on 27-04-2018 evaluated and accepted the bench mark revenue share estimated by the Transaction Adviser i.e. 2.51% of Gross Revenue Share. The Authority i.e. the Director of Ports, AP, Kakinada in the letter 10th read above have accepted the bench mark revenue estimated by the Transaction Adviser.

7. In the letter 11th read above, Government have forwarded the Security Clearance forms submitted by the highest bidder (i.e. Kakinada SEZ Limited) in the prescribed proforma to the Ministry of Home Affairs, GoI to accord Security Clearance so as to take up the project further and report/reply from GoI is awaited.

8. Government vide G.O.12th read above, constituted the Negotiations Committee to initiate negotiations with Original Project Proponent (OPP). The Committee met on 17-05-2018 and 22-05-2018 to take up negotiations with OPP for improving the revenue share offered by them. The Committee observed that, at the RFQ stage, 3 bidders (1. M/s.Adani Ports & SEZ Ltd 2. M/s.Navayuga Engineering Company Ltd and 3. M/s.Bothra Shipping Services Pvt Ltd Consortium) were qualified and the highest bid offered by i.e. M/s.Adani Ports & SEZ Ltd, the biggest Port Operator in the country had quoted 1.10% of revenue share which indicates the market conditions as mentioned by Transaction Adviser. The committee was also briefed by the Transaction Adviser that any thing over and above the bench mark revenue share of 2.51% can be accepted as it is beneficial to the Government. The Committee after detailed deliberations and after discussing with the management of Kakinada SEZ Limited has requested to improve their financial offer such that it is comparable with bench mark share as estimated by the Transaction Adviser. The representatives of OPP i.e. M/s.Kakinada SEZ Limited has finally agreed to improve their revenue share to 2.70 % of Gross Revenue.

9. The committee keeping in view of the benchmark revenue share as estimated by Transaction Adviser, recommended by TEC and accepted by the Authority, and also keeping in view that the OPP has expressed his inability to improve beyond 2.70%, decided to forward the offer of Revenue Share of 2.70% on Gross Revenue to Government for taking a final decision.

10. The Director of Ports, AP, Kakinada vide letter 13th read above has forwarded the proposals submitted by the Kakinada SEZ Limited regarding (i) Revenue Share improved by the OPP i.e. 2.70% on the Gross Revenue (ii) Providing External Infrastructure Facilities costing approximately Rs.200 crores (iii) Permission for Transfer of land to 100% Wholly Owned Subsidiary (WOS) and (iv) alienation of 289.77 acres of Port land and requested the Government to issue further orders.

11. Government after careful examination of the above matter and in consultation with line Departments hereby approve the following:

(i) to accept the 2.70% of the Revenue Share (Highest in all the PPP Ports) on the Gross Revenue from Commercial Operations Date (COD) offered by the Original Project Proponent (OPP) i.e. M/s.Kakinada SEZ Limited and declares the selected Bidder in terms of clause 3.3.5 of the RFP document and Award of the Concession to the OPP i.e. M/s.Kakinada SEZ Limited. The Letter of Award

(LoA) will be issued to the Selected Bidder i.e. Kakinada SEZ Limited after receipt of the Security Clearance from Ministry of Home Affairs, Government of India as per the RFP Clause No.3.1.4. The Revenue Share accepted is detailed below:

2.70% of Gross Revenue from the COD to 30 years
5.40% of Gross Revenue from 31-40 years
10.80% of Gross Revenue from 41-50 years

(ii) to provide external infrastructure viz., Road Infrastructure connecting to the nearest highway to the Port boundary, Water Supply up to Port boundary and Power supply from nearest substation up to Port boundary as per State Support Agreement of the Draft Concession Agreement (DCA), which is approximately Rs.200.00 Crores, as estimated by the Transaction Adviser.

(iii) for transfer of land to 100% wholly owned Port subsidiary of Kakinada SEZ Limited as submitted in the Swiss Challenge Proposals by Kakinada SEZ Limited, the Industries & Commerce Department shall take necessary further action.

14. The Director of Ports, AP, Kakinada shall take necessary further action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJAY JAIN
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director of Ports, AP, Kakinada.
M/s.Kakinada SEZ Limited, Hyderabad
through Director of Ports, AP, Kakinada.
The Industries & Commerce Department
The Chairman & Managing Director, INCAP, Vijayawada.
Copy to :
The G.A (Cabinet) Department.
PS to Chief Secretary to Govt, A.P.,
PS to Spl. C.S., Revenue Dept
PS to Prl.Secretary, MA&UD Dept.,
PS to Prl.Secretary to C.M.
PS to Prl.Finance Secretary,
PS to Prl.Secretary, E, I&I Department.
PS to Secretary, Industries & Commerce Dept.,
PS to Secretary to Legal Affairs, Law Department.
Sf/Sc (w.r.t. C.No.227/Ports.II/2016).

// FORWARDED :: BY ORDER //

SECTION OFFICER